

Laws of His Majesty's Province of Upper Canada, passed in the year 1857. Toronto: Stewart Derbshire & George Desbarats, 1857.

20 Victoria – Chapter 225

An Act to enable the surviving Executor of the late John McIntosh, Esquire, to lease certain real property in Toronto. Assented to 10th June, 1857.

Whereas the late John McIntosh, in his lifetime of the City of Toronto, in and by his last will and testament, duly executed on the nineteenth day of July, one thousand eight hundred and forty-nine, devised to his two sons James McIntosh and Charles McIntosh (then and now being minors) their heirs and assigns, or the survivor of them when they attain the age of twenty-five years, all and singular that certain parcel or tract of land on the corner of Yonge street, and Queen street (in the said City of Toronto) purchased from the Honorable George Cruikshank and James B. Macaulay, Executors of the late Ur. Macaulay, containing about a quarter of an acre, together with all houses and buildings thereon, to have and to hold the same share and share alike for ever, but subject to the conditions therein after named; and the Testator subsequently in his said will declared it to be his will and pleasure that his wife Helen McIntosh should, during her natural life, receive for herself and the support of his family the rents and profits arising from the said property, and that if any of the property which the Testator had insured and of which he had left the rents and profits to his wife during her natural life, should be destroyed by fire, then his Executors should have power to lease the land or any part thereof, as they might think best for the support of his wife and family, and he thereby authorized them to do so, for any term not exceeding forty-two years, the insurance money to be invested on landed security for the good of the legatees, and that if his said two sons James and Charles McIntosh should die without lawful issue before they inherited the property that he had devised to them, their share should go to the survivor of the Testator's children living at that time; And whereas the said Testator died seized of the property above described, and the said Will was duly proved and administration granted to the said Helen McIntosh and to Thomas Elliot of the Township of Scarborough, in the County of York, gentleman, the Executors appointed by the said Testator in his said Will, and the house and buildings on the said property were thereafter destroyed by fire, being then insured, and the insurance money was invested as directed by the Testator; And whereas the said Helen McIntosh is now deceased, and the said Thomas Elliot, the sole surviving Executor under the said Will, hath represented by his petition to the Legislature, that it would be greatly for the interest of the said devisees James McIntosh and Charles McIntosh that the said lot of land should be leased for a shorter term than forty-two years, but renewable on such conditions as he and the lessee might agree upon and insert in the lease, but that he finds that he has no power so to lease the said land and to bind the future owners thereof to such renewal, and the said land has for want of such power lain for some years unproductive, and subject to heavy taxes; and he hath therefore prayed that he may be empowered to make such lease and to carry out the intentions of the said Testator: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

- I. The said Thomas Elliot, as such executor as aforesaid, shall have full power and authority to make and grant a lease or leases of the lot of land mentioned in the preamble, or of any part or parts thereof,

for the term of forty-two years, or for any less term, for the purpose of building upon or improving the same, or otherwise, on such terms and conditions as he shall deem best for the interest of the said devisees, and of the future owners of the said land, and to provide in such lease or leases for the payment of the value of any buildings or improvements that may be erected or made on the demised premises during any such lease or leases, or any renewal thereof, and the mode of ascertaining such value by arbitration or otherwise; and every such lease or

leases shall enure to the benefit of the devisees or other owners of the demised premises holding through or under the said Will, or through the said Testator, and they shall have full power to make entries, maintain and prosecute actions and suits at law or equity for breach of any condition covenant or agreement in such lease on the part of the lessee or lessees; and every such lease, and any covenant or agreement inserted therein for the payment of the value of such buildings or improvements, or the mode of ascertaining such value, or for the renewal of any such lease or leases, or for further assurance, shall be valid and binding upon all and every of such devisees and owners, their heirs and assigns, as fully and effectually as if the said Thomas Elliot was the owner in fee simple of the demised premises, at the time of making any such lease or leases, and had so covenanted and agreed for himself, his heirs and assigns, and the demised premises had subsequently come to such devisees or owners by assignment in fee from him; but the said Thomas Elliot, or any of his representatives real or personal, shall not be liable in any way under any such lease or leases or any covenants or agreements therein contained; And provided also, that the terms created by any such lease and for which it shall be agreed to be renewed shall not, taken together, exceed the period of forty-two years, and that the powers hereby conferred on the said Thomas Elliott shall be exercised within ten years from the passing of this Act, and not later.

II. This Act shall be deemed a Public Act.